

AMENDED IN SENATE APRIL 18, 2007

AMENDED IN SENATE APRIL 10, 2007

AMENDED IN SENATE MARCH 21, 2007

SENATE BILL

No. 20

Introduced by Senator Torlakson

December 4, 2006

An act to amend Sections 41350, 49430, and 49531 of, to add Section 49537 to, and to repeal and add Sections 49430.5 and 49536 of, the Education Code, relating to pupil nutrition, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 20, as amended, Torlakson. Pupil nutrition: free and reduced-price meals: reimbursement.

(1) The Pupil Nutrition, Health, and Achievement Act of 2001 requires a school to be reimbursed \$0.21 for free and reduced-price meals sold or served to pupils. To qualify for this reimbursement, a school is required to follow the Enhanced Food Based Meal Pattern, Nutrient Standard Meal Planning, or Traditional Meal Pattern developed by the United States Department of Agriculture or the California's Shaping Health as Partners in Education (SHAPE) menu patterns developed by the state.

This bill, beginning with the 2007–08 fiscal year, would increase the reimbursement rate to \$0.30 for schools and child development programs that comply with certain specified requirements. The requirements would be phased in. Beginning with the 2009–10 fiscal year for elementary schools, and the 2010–11 fiscal year for middle and high schools, a school or program that does not meet those requirements for

the increased reimbursement rate would receive a reimbursement rate of \$0.1563.

(2) The Child Nutrition Act of 1974 authorizes a child nutrition entity, as defined, to apply to the State Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils and requires the department before July 1 of each year to prescribe an adjustment in the established state meal contribution rates based on a specified cost-of-living adjustment.

This bill would require the reimbursement ~~rate~~ *rates* established for this program to be ~~\$0.21 commencing with the 2006–07 fiscal year and~~ adjusted annually for increases in the cost of living, as prescribed.

(3) This bill would require the department to create an annual notification process that allows a school district, charter school, county office of education, or child development program to indicate its intent to comply with the meal standards under the \$0.30 reimbursement rate or the lower rate and to conduct audits of meal programs receiving state reimbursement at least twice every 5 years. The bill would require the department to provide technical assistance to a school district, charter school, county office of education, or child development program that indicates an intent to receive the higher reimbursement but does not comply with the required nutrition standards.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 41350 of the Education Code is amended
- 2 to read:
- 3 41350. The Superintendent shall make allowances for child
- 4 nutrition as follows:
- 5 (a) Reimbursement of child nutrition entities, as defined by
- 6 Section 49530.5, for all free and reduced-price meals, pursuant to
- 7 Sections 49430.5 and 49536.
- 8 (b) Reimbursement of school districts and county
- 9 superintendents of schools for the difference between the current
- 10 fiscal year average statewide lunch or breakfast cost for all free
- 11 and reduced-price meals required by Section 49550 as determined

1 by the Superintendent and the combined total income per meal
2 derived from pupil charges, federal funds, and state funds as
3 provided in Article 11 (commencing with Section 49550) of
4 Chapter 9 of Part 27.

5 (c) The combined state and federal reimbursements shall not
6 exceed the current fiscal year average statewide lunch or breakfast
7 cost. If the combined pupil charges, state reimbursements, and
8 federal reimbursements exceed the current average statewide lunch
9 or breakfast costs, the federal funds shall be expended prior to the
10 expenditure of any state funds.

11 SEC. 2. Section 49430 of the Education Code is amended to
12 read:

13 49430. As used in this article, the following terms have the
14 following meanings:

15 (a) “Elementary school” means a public school that maintains
16 any grade from kindergarten to grade 6, inclusive, but no grade
17 higher than grade 6.

18 (b) “Middle school” means any public school that maintains
19 grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.

20 (c) “High school” means any public school maintaining any of
21 grades 10 to 12, inclusive.

22 (d) “Full meal” means any combination of food items that meet
23 USDA-approved School Breakfast Program or National School
24 Lunch Program meal pattern requirements.

25 (e) “Added sweetener” means any additive other than 100
26 percent fruit juice that enhances the sweetness of a beverage.

27 (f) “Sold” means the exchange of food for money, coupons, or
28 vouchers.

29 (g) “Entrée” means a food that is generally regarded as being
30 the primary food in a meal, and shall include, but not be limited
31 to, sandwiches, burritos, pasta, and pizza.

32 (h) “Snack” means a food that is generally regarded as
33 supplementing a meal, including, but not limited to, chips, crackers,
34 onion rings, nachos, french fries, donuts, cookies, pastries,
35 cinnamon rolls, and candy.

36 (i) “Deep fried” means the food being described is cooked by
37 total submersion in oil or fat.

38 SEC. 3. Section 49430.5 of the Education Code is repealed.

39 SEC. 4. Section 49430.5 is added to the Education Code, to
40 read:

1 49430.5. (a) For purposes of this section, the following
2 definitions apply:

3 (1) “School” means a school operated and maintained by a
4 school district or county office of education, or a charter school.

5 (2) “School district” means a school district, charter school, or
6 county office of education.

7 (3) “Child development program” means a program operated
8 pursuant to Chapter 2 (commencing with Section 8200) of Part 6.

9 (b) (1) The reimbursement a school or child development
10 program receives for free and reduced-price meals sold or served
11 to pupils in elementary, middle, or high schools included within
12 a school district is twenty-one cents (\$0.21), unless otherwise
13 specified in subdivision (c) or (d).

14 (2) To qualify for reimbursement for free and reduced-price
15 meals provided to pupils in elementary, middle, or high schools,
16 a school shall follow the Enhanced Food Based Meal Pattern,
17 Nutrient Standard Meal Planning, or Traditional Meal Pattern
18 developed by the United States Department of Agriculture (USDA)
19 or the Shaping Health as Partners in Education (SHAPE) menu
20 patterns approved by the State Department of Education.

21 (3) To qualify for reimbursement for free and reduced-price
22 meals provided to pupils in child development programs, a child
23 development program shall meet developmentally and
24 programmatically appropriate meal pattern or meal planning
25 requirements developed by the USDA.

26 (c) (1) (A) Beginning with the 2007–08 fiscal year, an
27 elementary school ~~or child development program~~ that sells or
28 serves free and reduced-price meals and meets the requirements
29 of subdivision (e) ~~or (f), as applicable~~, and subdivision (g) shall
30 receive a reimbursement rate of thirty cents (\$0.30).

31 (B) *Commencing with the 2007–08 fiscal year, a child*
32 *development program that sells or serves free or reduced-price*
33 *meals and meets the requirements of subdivision (f) shall receive*
34 *a reimbursement rate of thirty cents (\$0.30).*

35 (2) (A) Beginning with the 2009–10 fiscal year, an elementary
36 school ~~or child development program~~ that sells or serves free and
37 reduced-price meals and does not meet the requirements of
38 subdivision (e) ~~or (f), as applicable~~, and subdivision (g) shall
39 receive a reimbursement rate of 15.63 cents (\$0.1563).

1 (B) Commencing with the 2007–08 fiscal year, a child
2 development program that sells or serves free or reduced-price
3 meals and meets the requirements of subdivision (f) shall receive
4 a reimbursement rate of thirty cents (\$0.30).

5 (d) (1) Beginning with the 2007–08 fiscal year, a middle or
6 high school that sells or serves free and reduced-price meals and
7 meets the requirements of subdivision (e) ~~or (f), as applicable,~~ and
8 subdivision (g) shall receive a reimbursement rate of thirty cents
9 (\$0.30).

10 (2) Beginning with the 2010–11 fiscal year, a middle or high
11 school that sells or serves free and reduced-price meals and does
12 not meet the requirements of subdivision (e) ~~or (f), as applicable,~~
13 and subdivision (g) shall receive the difference of a reimbursement
14 rate of 15.63 cents (\$0.1563).

15 (e) To receive the increased reimbursement rate specified in
16 paragraph (1) of subdivision (c) or paragraph (1) of subdivision
17 (d), as applicable, a school shall comply with all of the following
18 requirements and prohibitions:

19 (1) Follow the USDA nutritional guidelines through the use of
20 the SHAPE menu patterns, as approved by the State Department
21 of Education and participate in the SHAPE program administered
22 by the State Department of Education.

23 (2) Not sell or serve any food item that is deep fried.

24 (3) Not sell or serve any food item that contains partially
25 hydrogenated or hydrogenated vegetable oils.

26 (4) Offer whole grain products for at least 25 percent of
27 combined grain and bread offerings weekly.

28 (5) Offer only milk, soy milk, rice milk, or other similar
29 nondairy milk that is nonfat, 1-percent fat, or 2-percent fat.

30 (6) Offer at least two cups of fresh fruit and vegetables for lunch
31 meals each week and at least one cup of fresh fruits and vegetables
32 for breakfast meals each week.

33 (f) To receive the increased reimbursement rate specified in
34 paragraph (1) of subdivision (c), a child development program
35 shall comply with all of the following requirements and
36 prohibitions:

37 (1) Meet developmentally and programmatically appropriate
38 meal pattern or meal planning requirements developed by the
39 USDA.

40 (2) Not sell or serve any food item that is deep fried.

1 (3) Not sell or serve any food item that contains partially
2 hydrogenated or hydrogenated vegetable oils.

3 (4) Offer whole grain products for at least 25 percent of grain
4 and bread offerings weekly.

5 (5) Offer only milk, soy milk, rice milk, or other similar
6 nondairy milk that is nonfat, 1-percent fat, or 2-percent fat. Child
7 development programs that serve children 2 years of age and under
8 are exempt from this requirement.

9 (6) Offer at least one cup of fresh fruits and vegetables for lunch
10 meals weekly and at least one-half cup of fresh fruits and
11 vegetables for breakfast meals weekly.

12 (g) ~~(f)~~—In order to qualify to receive the reimbursement increase
13 pursuant to paragraph (1) of subdivision (c) or paragraph (1) of
14 subdivision (d), as applicable, a school district shall satisfy both
15 of the following:

16 ~~(A)~~

17 (1) Hold a public hearing on or before July 1, 2009, to discuss
18 each of the following:

19 ~~(i) A school campus policy that allows pupils to purchase or~~
20 ~~eat, or prohibits pupils from purchasing or eating, the lunch meal~~
21 ~~outside of the school campus.~~

22 (A) *A campus policy to encourage more pupils to stay on campus*
23 *for their meals and to increase the quality and nutritional value*
24 *of the meals served.*

25 ~~(ii)~~

26 (B) The capacity of each high school campus and the food
27 service program to serve a lunch meal to each high school pupil
28 during the lunch period.

29 ~~(B)~~

30 (2) On or before January 1, 2010, amend the Local School
31 Wellness Policy as required by Section 204 of the federal Child
32 Nutrition and Women, Infants, and Children (WIC) Reauthorization
33 Act of 2004 to include each of the following:

34 ~~(i)~~

35 (A) A policy on encouraging *more* pupils to eat ~~the lunch meal~~
36 ~~offered by the school or eat a healthy lunch on campus that was~~
37 ~~prepared at home~~ *a healthy lunch*. In enacting this clause, it is not
38 the intent of the Legislature to discourage pupils from eating the
39 lunch meal at home.

40 ~~(ii)~~

1 (B) The assignment of administrative oversight at the school
2 district level to ensure compliance with this article.

3 ~~(2) A child development program shall comply with the~~
4 ~~requirements of this subdivision to the extent applicable.~~

5 (h) Beginning July 1, 2008, in order to be eligible to receive the
6 reimbursement specified in paragraph (1) of subdivision (c) or
7 paragraph (1) of subdivision (d), as applicable, a school district or
8 child development program shall provide the department a
9 self-certification of compliance with subdivision (e) or (f), as
10 applicable, and subdivision (g), as applicable, as part of the annual
11 renewal process of the department.

12 (i) The reimbursement rates set forth in this section shall be
13 adjusted annually for increases in cost of living in the same manner
14 set forth in Section 42238.1.

15 (j) A school district or child development program may apply
16 for the reimbursement provided by this section and any other
17 reimbursements provided by this code.

18 SEC. 5. Section 49531 of the Education Code is amended to
19 read:

20 49531. (a) Any child nutrition entity or an educational entity
21 specified in Section 49430.5 may apply to the department for all
22 available and applicable federal and state funds so that a
23 nutritionally adequate breakfast or lunch, or both, may be provided
24 to pupils each schoolday at each school in the districts or
25 maintained by the county superintendents of schools, or at private
26 schools and parochial schools and to children receiving child
27 development services. The State Board shall adopt rules and
28 regulations for the operation of lunch and breakfast programs in
29 school districts. A child nutrition entity that receives state funds
30 pursuant to this article shall provide breakfasts and lunches in
31 accordance with state and federal guidelines.

32 (b) A nutritionally adequate breakfast, for the purposes of this
33 article, is one that qualifies for reimbursement under the federal
34 child nutrition program regulations, meets a minimum of one-fourth
35 of the current Recommended Dietary Allowance established by
36 the National Research Council, and incorporates the current United
37 States Dietary Guidelines for Americans. A nutritionally adequate
38 lunch is one that qualifies for reimbursement under the federal
39 child nutrition program regulations, meets one-third of the
40 Recommended Dietary Allowance established by the National

1 Research Council and incorporates the current United States
2 Dietary Guidelines for Americans.

3 (c) State reimbursement for free and reduced-price meals
4 provided pursuant to this article or Section 49430.5 shall be limited
5 to meals provided to pupils who are within the relevant definitions
6 and criteria in federal statutes and regulations that prescribe
7 eligibility for free and reduced-price meals.

8 SEC. 6. Section 49536 of the Education Code is repealed.

9 SEC. 7. Section 49536 is added to the Education Code, to read:

10 49536. (a) The department, before July 1 of each year, shall
11 prescribe an adjustment in the state meal contribution rates
12 established pursuant to this section for the forthcoming fiscal year.

13 ~~(b) Commencing with the 2006-07 fiscal year, the~~
14 ~~reimbursement rates established pursuant to this section shall be~~
15 ~~twenty-one cents (\$0.21) for free and reduced-price meals provided~~
16 ~~pursuant to this article.~~

17 (e)

18 (b) The reimbursement ~~rate~~ *rates* set forth in ~~this section~~ *Section*
19 *49430.5* shall be adjusted annually for increases in the cost of
20 living in the same manner as set forth in Section 42238.1.

21 SEC. 8. Section 49537 is added to the Education Code, to read:

22 49537. (a) The department shall create an annual notification
23 process that allows a school district, charter school, county office
24 of education, or child development program to indicate its intent
25 to comply with the meal standards and reimbursement ~~rate under~~
26 ~~Section 49430.5 or 49536~~ *rates set forth in Section 49430.5*.

27 (b) The department shall conduct ~~audits~~ *reviews* of meal
28 programs funded pursuant to this article at least twice every five
29 years.

30 (c) The department shall provide technical assistance to any
31 school district, charter school, county office of education, or child
32 development program that indicates an intent to receive
33 reimbursement pursuant to Section 49430.5 but does not comply
34 with the nutrition standards required by that section.

35 SEC. 9. This act is an urgency statute necessary for the
36 immediate preservation of the public peace, health, or safety within
37 the meaning of Article IV of the Constitution and shall go into
38 immediate effect. The facts constituting the necessity are:

1 In order to provide the increased reimbursement rate for school
2 meals to schools in a timely manner, it is necessary that this act
3 take effect immediately.

O